

Award No. 546

Case No. 546

PUBLIC LAW BOARD NO. 5383

BROTHERHOOD OF LOCOMOTIVE ENGINEERS )

vs. )

) Parties to Dispute

UNION PACIFIC RAILROAD COMPANY )

STATEMENT OF CLAIM:

Claim of Engineer T. L. Holmes, Union Pacific former Chicago and North Western Transportation Company, for compensation for all lost time including time spent at the investigation and that this incident be removed from Claimant's personal record when he was investigated on the following charge:

"Your responsibility in connection with your failure to stop your train short of red board of Form 'Y' Train Order Number 333, located between Flint and Hampton, and your failure to properly comply with rules governing movement in ABS territory at Hampton, Iowa, while you were assigned as members on crew on DWKMA on November 17, 1984."

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are Carrier and Employee within

the meaning of the Railway Labor Act, as amended, and that the Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

Claimant was found responsible for failure to stop short of a red board and for failure to comply with operating rules governing movement in ABS territory. He was disciplined with ten (10) days suspension.

The essential facts are that the red board in question was located about one-tenth (1/10th) mile short of where it should have been and Claimant's engine went past it a few feet for a technical violation of rules. Also, Claimant violated Rule 509 when he did not stop his train one hundred (100) feet past a signal and wait ten (10) minutes before proceeding.

The Board finds that the record here supports the conclusion that Claimant was at fault for violating the red board. The fact that it was out of place for a short distance is not determinative. Claimant saw it and could have stopped short of it if he had done a better job.

As to the Rule 509 violation, the Board finds that Claimant should not have been found at fault. The dispatcher's instructions were to stop at a signal and talk to the flagman of a work train ahead before proceeding. There was enough ambiguity in the dispatcher's instructions to conclude that the train had permission to proceed as was done.

In view of the above, the discipline shall be reduced to five (5) days suspension.

AWARD

Claim is sustained, in part, as indicated above.

ORDER

The Carrier is ordered to make this Award effective within thirty (30) days from the date shown below.

B. H. Ivan Arthur  
Employee Member

W. J. Taylor  
Carrier Member

D. Kelly  
Chairman and Neutral Member

Dated: 3-20-98